

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS  
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 11/24/2015	(3) CONTACT/PHONE Cheryl Cochran, Planner / 805-781-1366	
(4) SUBJECT Hearing to consider an ordinance amending Title 19 (Building and Construction Ordinance) to adopt by reference Sections 490-495, Chapter 2.7, Division 2, Title 23 in the California Code of Regulations the Model Water Efficient Landscape Ordinance as mandated by the State of California Department of Water Resources per Gubernatorial Executive Order B-29-15. All Districts.			
(5) RECOMMENDED ACTION  It is recommended that the Board:  1. Adopt the ordinance in Attachment 1 amending Title 19 (Building and Construction Ordinance) and approve the proposed General Rule Exemption in Attachment 3 in accordance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000 et seq.			
(6) FUNDING SOURCE(S) N/A	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? No
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Hearing (Time Est. <u>30</u> ) <input type="checkbox"/> Board Business (Time Est. <u>    </u> )			
(11) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input checked="" type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR)  N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5 Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input type="checkbox"/> N/A    Date: <u>11/10/15</u>	
(17) ADMINISTRATIVE OFFICE REVIEW Lisa M. Howe			
(18) SUPERVISOR DISTRICT(S) All Districts			

# County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / Cheryl Cochran, Planner

VIA: Matt Janssen, Division Manager, Policy and Programs

DATE: 11/24/2015

SUBJECT: Hearing to consider an ordinance amending Title 19 (Building and Construction Ordinance) to adopt by reference Sections 490-495, Chapter 2.7, Division 2, Title 23 in the California Code of Regulations the Model Water Efficient Landscape Ordinance as mandated by the State of California Department of Water Resources per Gubernatorial Executive Order B-29-15. All Districts.

## **RECOMMENDATION**

It is recommended that the Board:

1. Adopt the ordinance in Attachment 1 amending Title 19 (Building and Construction Ordinance) and approve the proposed General Rule Exemption in Attachment 3 in accordance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000 et seq.

## **DISCUSSION**

The ordinance in Attachment 1 was introduced on November 10, 2015. If substantial changes are made during Board discussion, the item will need to be reintroduced today and considered at a subsequent hearing.

## **Background**

On April 1, 2015, Governor Brown signed Executive Order B-29-15, which directed the Department of Water Resources (DWR) to update the State's Model Water Efficient Landscape Ordinance (MWELO) through expedited regulation. The California Water Commission approved the revised Ordinance on July 15, 2015. All local agencies are required to adopt either the MWELO or a local ordinance that is at least as effective by December 1, 2015. If a local agency does not take action, the MWELO becomes effective by default. Adopting the ordinance by incorporating it into the County Code will help make the requirements more clear for applicants and ensure that requirements are accounted for in the development review process. The new requirements also include annual reporting by local agencies beginning on December 31, 2015.

The first Model Water Efficient Landscape Ordinance was adopted by DWR in 2010 in compliance with AB 1881. Local agencies were required to adopt the model ordinance or a local water efficient landscape ordinance that was at least as effective and to report their adoption decision to DWR. The County responded with an explanation of existing requirements for outdoor water conservation, including a copy of the outdoor landscape requirements contained in the Inland Land Use Ordinance (Title 22). The County's existing landscaping standards in Title 22 mainly affect landscaping installed at the time of initial construction and offer multiple methods to guarantee that proposed planting will be water efficient. An applicant can comply with the requirements by selecting all or most plant materials from the County's plant list, or can show through calculations from a landscape professional that water conservation techniques will create a water efficient landscape. Additional requirements for outdoor water use relative to the California Green Building Code are found in Title 19, the Building and Construction Ordinance. Existing requirements include compliance with Cal Green Tier 1 for all new single family dwellings and more specific requirements including irrigation design and a water budget for

builder provided landscaping.

Because the updated MWELO contains many additional requirements that apply to smaller projects, the County's existing landscaping standards can no longer be determined to be as effective as the MWELO. In response to Executive Order B-29-15, DWR has increased efforts to ensure that local agencies come into compliance with the MWELO, such as instituting annual reporting requirements.

The proposed amendment would adopt the updated MWELO by adding a reference in Title 19 to Sections 490-495, Chapter 2.7, Division 2, Title 23 in the California Code of Regulations. The reference to the MWELO is being added to Title 19 because the new landscaping provisions must be addressed during the building permit process. Due to the short timeframe available for the County to comply with State requirements, Title 22 will be updated for consistency at a later date. The California Green Building Code will also be made consistent in the next regular update.

### Applicability

As a result of MWELO adoption, smaller projects will be subject to more strict landscaping requirements. The County's existing landscaping regulations have minimal water efficiency requirements for most small, owner provided landscaping, such as a single family dwelling with less than 2,500 square feet of landscaping. The MWELO applies to all new projects with an aggregate landscape area of 500 square feet or greater that require a building permit. It also applies to rehabilitated landscape projects with an aggregate landscape area of 2,500 square feet or greater that require a building permit. Project applicants with new landscapes less than 2,500 square feet can choose a prescriptive compliance option contained in Appendix D of the MWELO. This method offers a simplified option; however, these requirements are still more stringent than the County's existing requirements for landscapes of this size. The County will provide a detailed application packet, checklist, and a list of Frequently Asked Questions to applicants and interested individuals. The following table indicates when the MWELO is applicable.

Requirements	Type of Development							
	Existing Landscaping	Additions or Remodels not Proposing a Landscape Change	New Construction or Rehabilitated Landscapes Associated with a Building Permit with Total Landscape Area:					Landscapes < 2,500 sqft. that use Greywater or Captured Rainwater to Meet Total Water Requirement
			< 499 sqft	500 to 2,500 sqft.		> 2,500 sqft.		
				Res	Com	Res	Com	
Full Ordinance Requirements	N/A	N/A	N/A	N/A	N/A	YES	YES	N/A
Prescriptive Requirements Only (Appendix D)	N/A	N/A	N/A	YES	YES	N/A	N/A	YES
Dedicated Landscape Meter Required	N/A	N/A	N/A	N/A	YES if > 1,000 sqft.	YES if > 5,000 sqft.	YES	N/A

### Local Agency Review Process Requirements

The MWELO requires applicants with projects containing new landscaping equal to or greater than 500 square feet to submit a Landscape Documentation Package. This submittal will be required as part of the building permit process, and the County must review and approve or deny the Landscape Documentation Package. Once approved, the County is required to submit a copy of the Water Efficient Landscape Worksheet to the local water purveyor. Local agencies have the option of designating a water purveyor as the responsible entity for implementation of all or a portion of the MWELO

requirements. Since the unincorporated areas of the County are served by many different small water purveyors with varying capacities, it may not be practical to rely on water purveyors to implement MWELo requirements. Regardless, the County would be the only responsible party in rural areas of the County that are not served by a water purveyor.

The Landscape Documentation Package must include a water efficient landscape worksheet, a soil management report, a landscape design plan, an irrigation plan, and a grading plan (if necessary). A landscape water meter is required on all non-residential irrigated landscapes between 1000 and 5000 sq. ft. and all residential landscapes 5,000 sq. ft. or greater.

After the Landscape Documentation Package is approved and landscaping is installed, the applicant must submit a Certificate of Completion signed by the landscape plan designer, irrigation installer, or landscape contractor to verify that landscaping has been installed according to the approved plans. An irrigation audit report must be included with the certificate of completion. The irrigation audit can be conducted by either a local agency landscape irrigation auditor or a third party certified landscape irrigation auditor.

### **Exceptions for Recycled Water, Greywater, Special Landscape Areas**

The MWELo includes exceptions for alternative water supplies and for special landscape areas such as edible plants and non-residential recreation areas. For example, as an incentive for greywater use, landscapes under 2,500 sq. ft. that are irrigated entirely with graywater or captured rainwater have far fewer requirements. They are subject only to the prescriptive requirements of Appendix D, Prescriptive Compliance Option.

### **Relation to Stormwater Requirements**

The MWELo requires friable soil in planted areas to maximize water retention and infiltration. Four yards of compost per 1000 sq. ft. of area must be incorporated. Other recommended measures for increasing onsite stormwater retention are listed in the Ordinance. These requirements will be met in conjunction with the County's existing stormwater requirements.

### **Prescriptive Compliance Option**

Applicants with projects where total landscape area is less than 2,500 sq. ft. can choose to comply with the prescriptive requirements listed in Appendix D. With this option, many criteria are no longer required, including the Water Efficient Landscape Worksheet and Calculations, the Soil Management Report, and the Irrigation Audit Report. Instead, water efficient landscaping is achieved by using climate adapted plants (i.e. native) that require little, occasional, or no summer water in 75% of the total landscaped area for residential projects and 100% of the total landscaped area for non-residential projects. Turf cannot exceed 25% of the total landscaped area for residential projects and is not allowed in non-residential projects.

### **Reporting Requirements**

Local agencies are required to report to the Department of Water Resources on implementation and enforcement of the MWELo by December 31, 2015. Subsequently, local agencies will be required to report on an annual basis by January 31<sup>st</sup> of each year. Reporting must include the number projects subject to the ordinance during the reporting period, procedures for review, verification, and enforcement, as well as challenges in implementing the ordinance and educational and other needs to assist proper implementation.

### **OTHER AGENCY INVOLVEMENT/IMPACT**

County Counsel has reviewed the amendment as to its form and legal effect.

### **FINANCIAL CONSIDERATIONS**

The department will monitor impacts on staff resources needed to meet MWELo implementation and reporting requirements and may request resources or changes to the County fee schedule in the future.

## **RESULTS**

Adopting the Ordinance amendment in Attachment 1 will incorporate the requirements of the Model Water Efficient Landscape Ordinance and comply with Executive Order B-29-15.

## **ATTACHMENTS**

1. Attachment 1 - Amendment to Title 19
2. Attachment 2 - Model Water Efficient Landscape Ordinance
3. Attachment 3 - General Rule Exemption